

UDOT Consultant Services

Liability Insurance Guidelines for Consultants

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Liability Insurance Requirements

Services to be provided by the Consultant are required to be covered by insurance. The Consultant will furnish UDOT a Certificate of Insurance for each type of insurance required, to be approved by UDOT, before the Consultant begins work. The Consultant's insurer must be authorized to do business in Utah and must meet the specified A.M. Best rating or better. The following insurance shall be maintained in force until all activities under contract with UDOT are completed and accepted by UDOT.

The Consultant shall require the insurance company that issues the Certificates of Insurance for the evidence of the required insurance coverage to endeavor to provide the UDOT with 30 days written notice in the event that coverage is canceled before the policy expiration date stated in the Certificate. The Consultant will further provide UDOT with 30 days written notice prior to making an alternation or material change to the required insurance coverage.

Please note these insurance guidelines do not apply to Design/Build projects. For a D/B project, the Consultant will need to follow the requirements outlined in the RFQ/RFP for the project.

General and Automobile Liability

The Consultant will furnish General Liability (GL) and Automobile Liability (AL) insurance with a limit of not less than **\$1,000,000 per occurrence and for GL not less than \$2,000,000 aggregate**. The GL and AL liability insurance will have an A.M. Best rating of A-class VIII or better. If this coverage is written on a claims-made basis, the Certificate of Insurance shall so indicate.

The Consultant represents that as long as commercially available the insurance will remain in effect such that claims reported up to three (3) years beyond the date of substantial completion of any UDOT contract are covered.

General and Automobile Liability are required to be endorsed naming UDOT, the State of Utah, and the Local Authority as Additional Insureds and, on General Liability, indicate they are primary and not contributing coverage. An Additional Insured Endorsement is required to be submitted as part of the insurance reporting form.

Professional Liability

(aka: Architect & Engineers Insurance, Errors & Omissions Insurance, Malpractice Insurance) Professional Liability insurance having an A.M. Best rating of A-class VIII or better, is required. If this coverage is written on a claims-made basis, the Certificate of Insurance shall so indicate. The Consultant represents that as long as commercially available the insurance shall remain in effect such that claims reported up to three (3) years beyond the date of substantial completion of UDOT contracts are covered (on construction contracts or modifications for construction engineering management the insurance, shall remain in effect for one (1) year after completion of projects).

Professional Liability does NOT require an Additional Insured Endorsement.

For contracts written by UDOT Consultant Services **prior to January 1, 2009**, **\$1,000,000 per claim and \$1,000,000 aggregate** is required as a minimum.

For contracts written by UDOT Consultant Services from **January 1, 2009 through December 31, 2009**, **\$1,000,000 per claim and \$2,000,000 aggregate** is required as a minimum.

For contracts written by UDOT Consultant Services **on January 1, 2010 and later**, **\$2,000,000 per claim and \$2,000,000 aggregate** is required as a minimum.

Reasons for increase to minimums:

- The State Owner Controlled Insurance Program no longer provides professional liability for consultants.
- Some other government entities are already requiring increased minimum insurance coverage and therefore UDOT is not out of line requiring the increased limits.
- In today's environment, the \$1,000,000 limits are insufficient.

Valuable Papers

Valuable Papers and Records Coverage and/or Electronic Data Processing (Data and Media) is coverage for the physical loss or destruction of the work product including drawings, plans, specifications and electronic data and media. The contract states that a Consultant must carry a **sufficient amount** of Valuable Papers coverage to “. . . protect the COSULTANT, its sub-consultants, the Local Authority, and the DEPARTMENT from the loss of said information.”

Valuable Papers coverage does NOT require an Additional Insured Endorsement.

Aircraft Liability

Aircraft Liability in the amount of **\$1,000,000 per occurrence** is required if aircraft are utilized.

Aircraft Liability is required to be endorsed naming UDOT, the State of Utah, and the Local Authority as Additional Insureds and indicate they are primary and not contributing coverage.

Workers Compensation

Workers Compensation coverage is required at statutory limits. If covered by Workers Compensation Fund of Utah, then the A.M. Best rating is not required in this area.

- **Including Coverage B, Employer's Liability**
- **\$100,000 limit each accident**
- **\$500,000 limit per disease-policy limit**
- **\$100,000 limit per disease-each employee**

Workers Compensation coverage does NOT require an Additional Insured Endorsement.

Increased Insurance Requirement

If the minimum insurance coverage is insufficient for a specific project, UDOT may require a consultant to obtain additional insurance. The UDOT Project Manager and the

Consultant will perform a *UDOT Consultant Services Professional Liability Risk Assessment*, see page 7 for additional information.

Insurance Reporting Process

Change in Process

In an effort to streamline the insurance reporting process, Consultant Services is changing the process for providing proof of insurance for those contracts administered by Consultant Services that only require the minimum insurance coverage.

Effective January 1, 2009, instead of submitting a Certificate of Insurance for each contract, Consultant Services requires a Certificate be submitted to UDOT which we will maintain on file. A new Certificate for Consultant Services contracts will not be required until the one "on file" with UDOT expires, has a change in coverage, is cancelled, or the specific project requires insurance over and above the minimum coverage required.

Subconsultant Requirement

UDOT holds the prime consultant responsible for all insurance requirements. Subconsultants are held to the same requirements as the prime consultant.

Insurance Reporting Forms

All insurance is required to be shown on an *Acord 25 Certificate of Liability Insurance Reporting Form* for all coverage except Workers Compensation. Workers Compensation coverage may be shown on an *Acord 25 Form* but may also be shown for example on Workers Compensation Fund of Utah letterhead.

An example of the *Acord 25 Form* is shown on the following page.

Items of note on the *Acord 25 Form*:

- The ADD'L INSRD boxes for General and Automobile Liability should be checked.
- An attention line or any individual's name should not be indicated in the CERTIFICATE HOLDER's box.
- A generic description of work performed by the insured/consultant for UDOT should be included in the DESCRIPTION OF OPERATIONS box. For example, "Environmental and design services". Nothing specific to a contract should be included; i.e., contract number, project number/location, project-specific description, PIN number.
- The Additional Insured Endorsement should not be in the DESCRIPTION OF OPERATIONS box. The Endorsement must be entirely on a separate page attached to the *Acord 25 Form*, an example follows the *Acord 25 Form* example.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

xx/xx/xxxx

PRODUCER Name of Insurance Agency Address - City - State & Zip Code Phone No. & Fax No. Email address, if available		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Name of Insured / Consultant Address - City - State & Zip Code		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: ABC Insurance Co.	#12345
		INSURER B: XYZ Mutual Insurance Co.	#67891
		INSURER C: Smokey Bear Insurance	#98765
		INSURER D:	
		INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	#XXXXXXXXXXXXX	1/1/2009	1/1/2010	EACH OCCURRENCE \$ \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ \$2,000,000 PRODUCTS - COMP/OP AGG \$
B	X		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	#XXXXXXXXXXXXX	1/1/2009	1/1/2010	COMBINED SINGLE LIMIT (Ea accident) \$ \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
			GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
			EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
A			WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	#XXXXXXXXXXXXX	1/1/2009	1/1/2010	X WC STATU-TORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ \$100,000 E.L. DISEASE - EA EMPLOYEE \$ \$100,000 E.L. DISEASE - POLICY LIMIT \$ \$500,000
C			OTHER Professional Liability	XXXXXXXXXXXXX	1/1/2009	1/1/2010	\$2,000,000 per claim \$2,000,000 aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS / ADDED ENDORSEMENT / SPECIAL PROVISIONS

Generic Description of Services (No contract, project, or PIN numbers or locations)

CERTIFICATE HOLDER

CANCELLATION

UDOT Consultant Services 4501 S. 2700 W. Box 148490 Salt Lake City, UT 84114-8490	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE Name, Signature, & Date
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Example of Additional Insured Endorsement

Acord 25 Reporting Form

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<Name of Insured/Consultant>

<Name of Insurance Carrier> and <Policy Number>

Additional Insured Endorsement for General Liability and Auto Liability

The State of Utah, UDOT and the Local Government Agency (if applicable) named as Certificate Holder are added as additional insureds. It is agreed that coverage afforded under the policies certified in this Certificate shall be primary and any insurance or self-insurance program carried by the State or any of its agencies, boards, departments or commissions shall be excess and not contributory insurance to that provided by the named insured. It is further agreed that no policy shall expire, be canceled or materially changed* to affect the coverage available to the State without thirty (30) days written notice to the State (except ten (10) days for nonpayment of premium). This Certificate is not valid unless countersigned by an authorized representative of the insurance company.

* “. . . Materially changed . . .” is defined as a major change that changes the broad scope of the policy or a reduction of liability limits below the State's minimum.

UDOT Consultant Services Professional Liability Risk Assessment

UDOT and the Consultant should determine the appropriate Professional Liability Coverage during negotiation of the engineering services contract based on the specific project/work being negotiated. The minimum insurance coverage required is \$1,000,000 per occurrence and \$1,000,000 aggregate until January 1, 2009. The limits will increase to \$1,000,000 per occurrence and \$2,000,000 aggregate on January 1, 2009. The limits will increase again to \$2,000,000 per occurrence and \$2,000,000 aggregate on January 1, 2010. It is expected that these limits will be sufficient for the majority of consultant contracts. However, occasionally the project or work being considered may involve **abnormal risk** components, which may justify obtaining a Project-Specific Rider, increasing the Professional Liability Insurance Coverage for the work being considered. If it is determined that a Project-Specific Rider is justified, then the cost to obtain this additional insurance will become an eligible direct expense to the project.

The following questions are intended to assist the UDOT Project Manager and Consultant to determine whether there may be abnormal risks, which would warrant further discussion concerning whether the minimum Professional Liability Coverage is adequate or not. UDOT Risk Management is a resource to the UDOT Project Manager and the Consultant.

General

- ☐ Is the construction cost estimate over \$50,000,000?
- ☐ Does the contract require an accelerated schedule?

Structures

- ☐ Does the design involve unusually complicated structures?
 - Bridges with piers in water ways
 - Complicated bridge types
 - Complicated retaining structures
- ☐ Does the design involve Accelerated Bridge Construction?
 - Super-structure
 - Carrier beams
 - Precast elements

Geotechnical

- ☐ Are there unusual slope stability issues?
 - Canyon project
 - Land slides
- ☐ Are there unusual foundation issues?
 - Unusual settlement

Hydrology/Hydraulics

- ☐ Are there unusual hydrology/hydraulic issues?
 - River hydrology
 - Scour
 - Above grade canal flow line

Other Issues

- ☐ Is there an unusual pavement design?
- ☐ Are there significant hazardous materials or wastes on the project, do they include lead, asbestos, PCBs, mercury, or radioactivity and/or does the project include remediation of these hazardous materials or waste?
- ☐ Is this a federal-aid local government project?
- ☐ Are there any risks not identified above that could potentially cause a claim of over the minimum insurance coverage amount?

Liability Insurance Waiver Requests

If a Consultant performs work that in their opinion does not present a liability risk for UDOT, the Consultant may request a waiver to the minimum liability insurance coverage required.

The waiver request should contain the following information and be forwarded to the UDOT Project Manager and the Consultant Services Contract Administrator during negotiation of the Consultant contract.

- ❑ What liability insurance coverage(s) is the Consultant requesting a waiver for?
- ❑ If a Consultant has some liability insurance coverage, but not at the minimum required, the Consultant will need to explain and provide a Certificate of Insurance.
- ❑ The Consultant will provide a brief description of the work in the contract.
- ❑ The Consultant will explain why the services being provided do not present a risk for UDOT or why they don't present a risk that would warrant coverage at the minimum level required.